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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/766,549	01/18/2001	John D. Martin	KCOS116809	9921

26389 7590 01/16/2002

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EXAMINER

RESTIFO, JEFFREY J

ART UNIT PAPER NUMBER

3619

DATE MAILED: 01/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	09/766,549	MARTIN ET AL	
	Examiner	Art Unit	
	Jeffrey J. Restifo	3619	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because line 1 recites the phrase "is provided" which is implied and should be removed. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 5-8, 14-18, 21-27, 29-32, and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Dennis(4,741,550).

Dennis discloses an interface adjustment mechanism comprising a frame member "F" securable to a boot 50 (which conventionally have an outsole and bottom surface), fore and aft holding members 74,73, a plurality of adjustment members 70,71 having elastomeric engagement portions 70,71 and threaded portions 74 for adjusting the distance between the boot and a plurality of base member 80,81, as shown in figures 11 and 20.

4. Claims 10-13, and 35 are rejected under 35 U.S.C. 102(e) as being anticipated by Reuss et al.(6,168,173).

Reuss et al discloses a snowboard binding system comprising a boot 18 with upper 20 and outsole 36,36, a binding(or boot) interface 22, an interface adjustment mechanism 81 comprising a frame member 64 with first and second ends "A,B" having apertures, a base member 46, at least one spacer 97, and a plurality of spacer holding members (or adjustment members) 70,72, for adjusting the space between said frame and base members, said adjustment members having engagement(pr contact) portions "E" and threaded portions "T", as shown in figures 3,4, and 10.

With respect to claim 36, the adjustment members could have different thickness pads and simply changing the size of the pads is not patentable unless it produces an unexpected result, see *In re Rose*, 105 USPQ 237 (CCPA 1955).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dennis, as applied to claims 1 and 14 above, and further in view of Deacon et al.(5,367,793).

Dennis does not disclose the engagement surface as having apertures for receiving a driver tool for removal. Deacon et al. does disclose boot engaging members

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10 having apertures 14 for receiving a driver tool for removal, as shown in figures 2 and

3. It would have been obvious to one having ordinary skill in the art at the same time the invention was made to have given the engaging members as taught by Dennis, the tool receiving apertures, as taught by Deacon et al., in order to allow a user to easily remove the members with the use of a power tool.

7. Claims 9, 20, 28, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dennis, as applied to claims 1, 14, 22, and 30 above, and further in view of Okajima(5,850,702).

Dennis does not disclose removable fore and aft cleats coupled to the bottom of the boot. Okajima does disclose a boot 1 having removable fore and aft cleats 4, as shown in figures 2 and 3. It would have been obvious to one having ordinary skill in the art at the same time the invention was made to have given the boot binding system, as taught by Dennis, the removable cleats, as taught by Okajima, in order to bind the boot sole to the base plate without the need for straps.

8. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reuss et al.(6,168,173).

Reuss et al discloses a snowboard binding system comprising a boot 18 with upper 20 and outsole 36,36, a binding(or boot) interface 22, an interface adjustment mechanism 81 comprising a frame member 64 with first and second ends "A,B" having apertures, a base member 46, at least one spacer 97, and a plurality of spacer holding members (or adjustment members) 70,72, for adjusting the space between said frame and base members, said adjustment members having engagement(pr contact) portions

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"E" and threaded portions "T", as shown in figures 3,4, and 10. Reuss et al. does not disclose the adjustment members as having different thickness. Simply changing the size of the pads is not patentable unless it produces an unexpected result, see *In re Rose*, 105 USPQ 237 (CCPA 1955). Therefore it would have been obvious to one having ordinary skill in the art at the same time the invention was to have given the binding, as taught by Reuss et al., different thickness of pads to increase or decrease the amount of cushion desired as a matter of design choice.

Conclusion


9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Helmond, Hussman, Hoelzl all disclose vibration dampeners of interest. Fletcher, Okajima, Tanaka, Meader et al., Marmonier, Korman, Maravetz et al., Paris, and Higgins et al. all disclose boot bindings of interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey J. Restifo whose telephone number is (703) 305-0579. The examiner can normally be reached on M-F (9:00-5:00), alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703) 308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-2571 for regular communications and (703) 308-2571 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.


JJR
January 14, 2002

Jeffrey J. Restifo
Examiner
Art Unit 3619

LANNA MAI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

